

MICHAEL W. KWASNIK

623 Kater Street
Philadelphia, P.A. 19147

February 2, 2013

Honorable Anne Marie Donio
United States Magistrate Judge
Mitchell H. Cohen Building & U.S. Courthouse
One John F. Gerry Plaza
Camden, N.J. 08101

RECEIVED

FEB - 6 2013

ANN MARIE DONIO
U.S. Magistrate Judge

**RE: COLONY INSURANCE COMPANY v. KWASNIK, ET. AL.
United States District Court, District of New Jersey
CIVIL ACTION No. 12-CV-00722**

Dear Judge Donio,

I am a Pro Se Defendant in the above referenced matter. I am in receipt of Plaintiff's Counsel's letter, dated January 31, 2013. Please accept this correspondence as a response to that letter. A pattern seems to be developing with Plaintiff's Counsel. He exaggerates circumstances and mischaracterizes facts to your Honorable court. Here are the true facts:

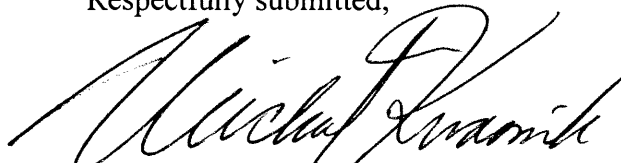
1. The current Scheduling Order allows my deposition to occur on or before February 28, 2013 (Please see Exhibit A.);
2. Plaintiff's Counsel noticed me, by mail, of a deposition date for me of January 30, 2013 (Please see Exhibit B);
3. I sent to Plaintiff's counsel the attached letter, by First Class Mail, on January 25, 2013, five (5) days before the proposed deposition date, (Please see Exhibit C.);
4. This letter explained that scheduling conflicts prevented me from attending on that date. This letter also provides alternative dates for my deposition to occur within the current Scheduling Order;
5. Now, the Plaintiff's Counsel is seeking an Order to compel my deposition and to sanction me \$150.00 of his costs. This demand of Plaintiff's Counsel is outrageous, unwarranted, and not supported by the Rules of Civil Procedure.

First, under the Federal Rules of Civil Procedure, Orders to Compel Depositions should only occur when a litigant violates a Discovery Order. I have not violated any outstanding order and will attend my Deposition within the deadlines of the current Scheduling Order. Plaintiff's Counsel's demand for an order to compel my deposition is unwarranted and not proper under the Federal Rules of Civil Procedure.

Second, under the Federal Rules of Civil Procedure, I properly notified the Plaintiff's counsel, by mail, prior to the proposed date of my deposition. As the attached proof of mailing indicates, my letter was mailed five (5) days before the scheduled date of the deposition. (Please see Exhibit D.) The Plaintiff is wrongfully seeking \$150.00 of his costs from me. His demands are without precedent or merit.

I request that Your Honor deny Plaintiff Counsel's unwarranted and meritless demands.

Respectfully submitted,



MICHAEL W. KWASNIK
Pro Se Defendant

cc: Robert F. Walsh, Esq.
Howard Z. Kanowitz, Esq.
Robert Keltos, Esq.
David DeClement, Esq

EXHIBIT A.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

COLONY INSURANCE COMPANY,

Plaintiff,

v.

KWASNIK, KANOWITZ &
ASSOCIATES, P.C., et al.,

Defendants.

Civil No. 12-722 (NLH/AMD)

ORDER

This Matter comes before the Court by way of letters dated December 5, 2012 and December 12, 2012 from Robert F. Walsh, Esquire, counsel for Plaintiff; and the Court having also reviewed letters from Defendant Kwasnik dated December 7, 2012 and December 12, 2012; and for good cause shown:

IT IS this **3rd** day of **January 2013**, hereby

ORDERED that pretrial factual discovery is hereby extended to **February 28, 2013**, only for purposes of conducting the deposition of Michael Kwasnik.

s/ Ann Marie Donio
ANN MARIE DONIO
United States Magistrate Judge

cc: Hon. Noel L. Hillman

EXHIBIT B.



Robert F. Walsh

1650 Market Street | One Liberty Place, Suite 1800 | Philadelphia, PA 19103-7395
Direct 215.864.7045 | Fax 215.399.9618
walshr@whiteandwilliams.com | whiteandwilliams.com

January 15, 2013

via HAND DELIVERY

Michael Kwasnik
623 Kater Street
Philadelphia, PA 19147

Re: *Colony Insurance Co. vs. Kwasnik, Kanowitz & Associates, P.C., et al*
U.S. D.C. District of NJ 1:12-cv-722

Dear Mr. Kwasnik:

As you are aware, the Court has given us until February 28, 2013 to complete your deposition in this matter. We had originally agreed to take your deposition later in February based on the understanding that your criminal trial would be completed in early February.

We have now received information that your criminal trial has been postponed to early March. Accordingly, we are unwilling to continue to defer your deposition in this matter until late February. Therefore, enclosed please find a Notice of Deposition for your deposition in this case for **January 30, 2013** at my office here in Philadelphia.

Please respond promptly to this letter and confirm that you will appear for your deposition on January 30, 2013.

Very truly yours,

WHITE AND WILLIAMS LLP

A handwritten signature in cursive script that reads "Robert F. Walsh".

Robert F. Walsh

RFW:mcm

Enclosure

cc: Howard Kanowitz (w/enclosure *via* Email)
Robert Keltos (w/enclosure *via* Email)
Michael E. DiFebbo, Esquire

EXHIBIT C.

MICHAEL W. KWASNIK
623 Kater Street
Philadelphia, P.A. 19147

January 25, 2013


Robert F. Walsh, Esq.
White and Williams
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, P.A. 19103

RE: COLONY INS. Co. v. KWASNIK, ET AL.
DOCKET No: DISTRICT COURT OF N.J.
1:12-CV-00722

Dear Mr. Walsh,

I am in receipt of your Notice of Deposition, dated January 15, 2013, concerning the above referenced matter. As you are aware, I am a Defendant in a pending criminal trial that is scheduled now to commence on March 4, 2013. The three weeks of January 28, 2013 to February 18, 2013 are replete with pre-trial motion due dates and pre-trial oral argument in that matter. The existing scheduling Order, in the above referenced matter, allows my deposition to occur before February 28, 2013. I request that you schedule my Deposition to occur after February 18, 2013, but before February 28, 2013.

Very truly yours,


MICHAEL W. KWASNIK
Pro Se Defendant

cc: Howard Z. Kanowitz, Esq.
Robert J. Keltos, Esq.
David M. DeClement, Esq.

EXHIBIT D.

W. KWASNIK
ER STREET
HIA, PA 19147

SOUTH JERSEY NJ 080

25 JAN 2013 PM 6 L



ROBERT F. WALSH, ESQ.
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